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10/785,530

02/23/2004

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EXAMINER

TABATABAI, ABOLFAZL

ART UNIT

PAPER NUMBER

2624

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------|----------------------------------|--|
| Office Action Summary | Application No. 10/785,530 | Applicant(s) KURAHASHI, AKIRA | |
| | Examiner Abolfazl Tabatabai | Art Unit 2624 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

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2. Claims 19-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows.
3. Claim 19, recites "**A recording medium records a program** to control the computer to function as...." embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized" – Guidelines Annex IV). That is, the scope of the presently claimed "a computer software product" (line 1 of claim 26) can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The Examiner suggests amending the claim such as "**A computer-readable medium embodied with a computer program** to..." or equivalent in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Ohara (U.S. 6,934,409 B2).

Regarding claim 1, Ohara discloses an image file control method for storing plural sets of image data (column 14, lines 12-15), wherein each of plural sets of image data is obtained in such a way that a body part of a patient having an ID code (column 13, lines 20-39) is radiographed (column 6, lines 18-36) with a magnification (column 27, lines 12-17) by an absorption contrast radiography or a phase contrast radiography (column 7, lines 48-55) so as to obtain a radiation image of the body part and the radiation image is read (column 10, lines 42-45) with a reading sampling pitch by an image reading device (column 13, lines 20-39) so that the image reading device outputs raw image data of the body part (column 27, lines 12-17); comprising step of; storing plural sets of raw image data by attaching supplemental information to each of plural sets of raw image data(column 14, lines 12-15), wherein the supplemental information contains an ID code (column 13, lines 20-39) of a patient and at least one of a set of a magnification and the reading sampling pitch and a full size sampling pitch calculated from the set of the magnification and the reading sampling pitch(column 13, lines 20-39).

Regarding claim 2, Ohara discloses the image file control method of claim 1, wherein the raw image data is converted into a predetermined resolving power (column 22, lines 1-20), and the magnification (column 27, lines 12-17) and reduction ratio (column 4, lines 43-47) at the time of the conversion is calculated from the full size sampling pitch (column 13, lines 20-39).

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Claims 3, 4 and 6 are similarly analyzed as claim 2 above.

Regarding claim 5, Ohara discloses the image file control method of claim 1, further comprising step of:

outputting the raw image data to an image output device (fig.1, element 28).

Regarding claim 7, Ohara discloses the image file control method of claim 5, wherein the raw image data is outputted together with also the accompanying information, when the raw image data is outputted to the image output device (column 27, lines 35-40).

Claims 8, 19 and 20 are similarly analyzed as claim 2 above.

Claim 9 is similarly analyzed as claims 1 and 2 above.

Claims 10 and 21 are similarly analyzed as claim 3 above.

Claims 11, 12 and 22 are similarly analyzed as claim 4 above.

Claims 13 and 23 are similarly analyzed as claim 5 above.

Claims 14 and 24 are similarly analyzed as claim 6 above.

Claims 15 and 25 are similarly analyzed as claim 7 above.

Claims 16, 17 and 18 are similarly analyzed as claim 2 and 5 above.

Claim 19 is similarly analyzed as claim 1 above.

Other Prior Art Cited

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ellegood et al (U. S. 6,137,860) disclose digital radiographic weld inspection system.

Smith et al (U. S. 6,851,851 B2) disclose digital flat panel x-ray receptor positioning in diagnostic radiology.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to ABOLFAZL TABATABAI whose telephone number is (571) 272-7458.

The Examiner can normally be reached on Monday through Friday from 9:30 a.m. to 7:30 p.m. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Bhavesh Mehta, can be reached at (571) 272-7453. The fax phone number for organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abolfazl Tabatabai

Patent Examiner

Technology Division 2624

April 23, 2007

A-Tabatabai